

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

STREAMBEND PROPERTIES III, LLC and
STREAMBEND PROPERTIES IV, LLC,

Plaintiffs,

v.

ORDER

Civil File No. 10-4745 (MJD/SER)

SEXTON LOFTS, LLC, et al.,

Defendants.

The above-entitled matter comes before the Court on Jerald Hammann's Motion for Joinder or Substitution of Parties. [Docket No. 318]

On January 28, 2014, this Court entered judgment dismissing this matter with prejudice. [Docket No. 306] That judgment was affirmed by the Eighth Circuit Court of Appeals. [Docket Nos. 313-14] The Eighth Circuit's mandate issued on February 18, 2015. [Docket No. 317] On June 29, 2015, Jerald Hammann, a non-party, filed the current motion requesting that, under Federal Rule of Civil Procedure 25(c), he be substituted for Plaintiffs in this matter based on an April 24, 2015, assignment of rights by Plaintiffs to Hammann.

Rule 25(c) “only applies to pending litigation.” Horphag Research Ltd. v. Consac Indus., Inc., 116 F.3d 1450, 1453 (Fed. Cir. 1997). Here, the motion to substitute or join was filed more than one year after this case was closed and after the mandate was issued affirming that judgment. There is no litigation currently pending before this Court. Therefore, substitution or joinder under Rule 25 is not available. See, e.g., Horphag Research Ltd., 116 F.3d at 1453. To the extent that Hammann seeks an order of substitution or joinder from the Eighth Circuit Court of Appeals or the United States Supreme Court, such requests must be directed to the appropriate higher court.

Accordingly, based upon the files, records, and proceedings herein, **IT IS HEREBY ORDERED:**

Jerald Hammann’s Motion for Joinder or Substitution of Parties
[Docket No. 318] is **DENIED**.

Dated: July 7, 2015

s/ Michael J. Davis

Michael J. Davis

United States District Court